SINGLE BENCH

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1395 OF 2005

PETITIONER:
Defendant No.1

Brijmohan Dua, son of Shri Sita Ram Dua, aged about 53 years, resident of Gondpara, Post Office Gol Bazar, Bilaspur (C.G.)

VS

RESPONDENT:
Plaintiff

1. Indian Church Council of the Disciple of Christ Society, through its Executive Secretary Shri A. Bhagwalli S/o. Shri A. Bhagwalli, aged about 53 years Ashley Memorial Bunglow, Jarhabhata, Bilaspur (C.G.)

1482/05 Pradhy Mishra P.R. Presented dated 26.05.05

Defendant No.2

2. Smt. Chandrakali Bai, aged about 40 years, wife of Shri A. Prakash, resident of Jarhabhata, Bilaspur (C.G.)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

(21)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 1395/05 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

8/4/2005

Miss Singhai for the petitioner.

Application for urgent hearing is allowed.

Heard.

The present petition is directed against the order dated 4/3/2005 passed by the Third Civil Judge Class I, Bilaspur in Civil Suit No.12-A/02 whereby the application for amendment filed by the defendant no.1/petitioner has been rejected.

A bare perusal of the impugned order shows that respondent no. 1/plaintiff had earlier filed the suit on the ground that lease amount was not paid. The said suit was decreed and possession obtained. Subsequently, the defendants took possession on 11.12.1983 and to evict the defendants present suit has been filed. The Court below has noted that United Christian Missionary Society filed the suit against Brij Mohan in the Court of Additional District Judge, Bilaspur and in that suit United Church of Northern India Trust Association had also been joined as party on 1.12.1997 and the present plaintiff has also been joined as defendant.

The application for amendment, which has been filed, has been rejected on the ground that it is highly belated. The defendant knew about it on 1.12.1997 and so far as mutation proceedings are concerned, they will have no bearing on the decision of the Civil Court.

The amendment application was filed at the stage when the arguments have been heard and the case was closed for judgment.

(26)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 1395/05 **सन् 200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The Trial Court rejected the amendment application by the impugned order.

Learned counsel contended that the order rejecting the impugned order is illegal and contrary to law. She placed reliance upon the judgments of the Apex Court in the cases reported in ***2001(8) SCC 97*** (Estralla Rubber vs. Dass Estate (P) Ltd.) & ***2002(7) SCC 559*** (Sampath Kumar vs. Ayyakannu and another).

So far as the law is concerned, it is well settled. In the instant case, however, the amendment sought is highly belated. It is at the stage when the judgment is to be delivered. The petitioner knew about these facts on 1.12.1997. In any case, more than seven years have passed.

Having thus considered the facts and circumstances of the case as emerged, not a case for interference while exercising extraordinary jurisdiction under Article 227 of the Constitution of India. However, the petitioner may raise the grounds in appeal or avail the remedy available under the law in case such an eventuality arises.

With the aforesaid observations, this petition stands disposed of.

Consequently, M.W.P. No.1079/05 also stands disposed of.

Sd/-
Fakhruddin
Judge

H/-